

LAW ON PUBLIC PROCUREMENT CONTRACTS

Law No : 4735
Adopted on : 05/01/2002
Date of Official Gazette : 22/01/2002
Official Gazette No : 24648

CHAPTER ONE GENERAL PROVISIONS SECTION ONE

PURPOSE, SCOPE, DEFINITIONS, AND PRINCIPLES

Purpose

Article 1 - The purpose of this Law is to lay down the rules and procedures applicable to the conclusion and implementation of public procurement contracts under the Public Procurement Law.

Scope

Article 2 - This Law shall apply to contracts made as a result of tendering processes carried out by public entities and institutions subject to the Public Procurement Law in accordance with the provisions of the said Law.

Definitions

Article 3 - For the purposes of this Law, definitions provided for in the Public Procurement Law shall apply.

Principles

Article 4 – For contracts to be made pursuant to this Law, no provisions may be included in a contract contrary to the tender documents.

Contractual provisions may not be amended, nor may supplementary contracts be made, in any case other than those specified in this Law.

The parties to public procurement contracts made under this Law shall have equal rights and obligations in implementing the contractual provisions. Any articles contrary to this principle shall not be included in provisions of either the tender documents or contracts. This principle shall apply to any interpretation or implementation of this Law.

SECTION TWO : CONTRACT MAKING

Type contracts

Article 5 - Type contracts shall be published in the Official Gazette in order to assure uniformity in implementation of this Law in connection with procurement of goods, services, and works.

Any contracts to be made by contracting authorities shall be drawn up in accordance with the provisions of the type contract. **(Supplementary sentence: 30/07/2003 – Law No 4964 /Art. 42)** For procurements of goods and services, the contracts customarily prepared by tenderers may be used, provided that they are not contrary to the provisions of type contracts and that the Authority approves them.

Contract categories

Article 6 - As a result of tender processes carried out in accordance with the Public Procurement Law, contracts shall be made in various categories as stated below:

a) For procurement of works; turn key lump-sum contracts shall be made over the total tender price offered by the tenderer for the entire work on the basis of implementation projects and site lists thereof.

b) For procurement of goods or services; lump-sum contracts shall be made over the total tender price offered by the tenderer for the entire work, the detailed specifications and quantities of which are pre-determined by the contracting authority.

c) Unit price contracts shall be made over the total price calculated by multiplying the quantity for each work item specified in the schedule prepared by the contracting authority, with unit prices proposed by the tenderer for each corresponding work item, on the basis of, preliminary or final projects and site lists thereof along with unit price definitions in procurement of works whereas on the basis of detailed specifications of the work involved in procurement of goods or services.

Information that must be included in contracts

Article 7 - It shall be mandatory to include the information listed below in the contracts to be made under this Law:

- a)** Title, specification, category and quantity of work; description of work in procurement of services.
- b)** Name and address of the contracting authority.
- c)** Name or business title and notification address of the contractor.
- d)** Information on and obligations of subcontractors, if any.

- e) Price, category and duration of contract.
- f) Terms and place of payment; amount and place of advance payment, if any.
- g) Method of payment of price difference, if any, for contractual works.
- h) Statement of cost items that are to be included in the contract price from among transportation, insurance, taxes, duties and charges payable.
- i) Statement of the parties that are to pay for taxes, duties, and charges payable and other contractual expenditure.
- j) Terms and conditions concerning such auxiliary services as installation, commissioning, training, repair-maintenance, and spare parts.
- k) Amount of performance bond and conditions for its return.
- l) Guarantee periods, where any is required, and any conditions pertaining to such guarantee.
- m) The place of performance, and procedure and conditions of delivery and receipt.
- n) Penalties applicable in case of delays.
- o) **(Amended item: 30/07/2003 – Law No. 4964/Art. 43)** Force majeure and conditions for time extensions, mutual obligations in case of increases and decreases in contractual works.
- p) Conditions pertaining to control, inspection and acceptance procedures.
- r) For procurement of works, conditions pertaining to insurance coverage of works and worksite as well as inspection of works and responsibility for construction.
- s) Conditions pertaining to amendments to contract.
- t) Conditions pertaining to termination of contract.
- u) Contractor's liability for the staff to be employed for the contractual works.
- v) Declaration that all documents included in the tender documents are appendices to the contract
- y) Resolution of disputes.

CHAPTER TWO

CONTRACT IMPLEMENTATION
SECTION ONE
PRICE DIFFERENCE, INSURANCE, FORCE MAJEURE, CONTROL, INSPECTION
AND ACCEPTANCE PROCEDURES

Eligibility for price difference

Article 8 - Council of Ministers, upon a proposal from the Public Procurement Authority, shall be entitled to set out rules and procedures governing payment of price differences per contract categories. No amendments may be made to the rules and procedures stated in a contract in regard to payment of price difference, after the contract has been signed.

Insurance coverage of works and worksites

Article 9- As regards works contracts, the contractor shall be obliged to insure all kinds of equipment at worksites including any machinery for construction or service as well as any materials, vehicles, and facilities as well as completed portions of works against natural disasters such as earthquake, flood, landslide, storm, fire, and other risks such as theft and sabotage, with such insurance coverage to be valid from the date of commencement of construction to the date of final acceptance, depending on the properties and characteristics of the works involved, as stated in the tender documents.

Force majeure

Article 10 – Events that may be considered as force majeure shall be:

- (a) Natural disasters.
- (b) Legal strikes.
- (c) Epidemics.
- (d) Announcement of partial or general mobilization.
- (e) Other similar circumstances that may be determined by the Authority where necessary.

Contracting authority may accept any of the above circumstances as force majeure, including cases of time extension and contract termination, only if the concerned event does not result from the contractor's fault, it constitutes an obstacle to the fulfillment of contractual obligations, the contractor was not able to remove such obstacle, the contractor has notified the contracting authority in writing within twenty days as from the date of the force majeure, and it has been documented / certified by competent authorities.

Control, inspection, and acceptance procedures

Article 11 - Inspection and acceptance commissions consisting of at least three persons to be formed by contracting authorities shall carry out inspection and acceptance procedures for delivered goods, services or works or for completed works. Inspection and acceptance procedures shall not be performed unless the goods or any completed work has been delivered to the contracting authority by the contractor.

However, where there is a relevant provision in the contract, the related contracting authority may perform inspections in certain stages and intervals on works requiring production or manufacturing processes, for purposes of determining whether such processes are being carried out in compliance with the quality and specifications set forth in tender documents, provided that such inspections shall in no way lift the powers and responsibilities of inspection and acceptance commissions.

Partial acceptance may be done for the contractual parts that have been completed and are available for independent use.

SECTION TWO PROVISIONS CONCERNING PERFORMANCE BOND

Supplementary performance bond

Article 12 - (Amended article: 30/07/2003 – Law No. 4964/Art. 44) As regards contract awards involving price differences, supplementary performance bond shall be obtained in the amount of 6 % of the price difference to be paid; and in cases where the contract price has increased, a supplementary performance bond which amounts to 6 % of the increased value shall also be obtained over assets acceptable as security. Supplementary performance bond calculated over the price which is to be paid as price difference may also be obtained through deductions from progress payments.

Return of performance bond and supplementary performance bond

Article 13 - Once it has been determined that the contractual obligations have been fulfilled in accordance with provisions of contract and tender documents and that the contractor is not involved in debt to the contracting authority in any way in connection with the concerned contract, the performance bond and supplementary performance bond, if any, shall be returned as follows:

(a) For construction works, half of the performance bond shall be returned following correction of deficiencies and errors, if any, and the approval of minutes of provisional acceptance, and the remaining portion shall be returned upon obtainment of a document from Social Security Institution which certifies having no further connection with and after the minutes of final acceptance has been approved.

(b) For works other than construction works, once it has been determined that a document from the Social Security Institution which certifies having no further connection with has been

submitted; half of the performance bond shall be returned in cases where a guarantee period has been envisaged for goods received or work performed and the remaining half shall be returned upon expiration of such guarantee period, while the entire performance bond shall be returned in cases where no period of guarantee has been envisaged.

In case the contractor's debts to the contracting authority or Social Security Institution or taxes owed on wages or payments considered as wages have not been paid until the date of final acceptance for works contracts, and until the date of final acceptance or the date of expiration of guarantee period, if any, in works other than construction works; the performance bond shall be converted into cash needless of filing a protest or obtaining writ and such amounts shall be offset against the debts, and remaining amount, if any, shall be returned to the contractor.

In case the subject of the contract involves off-the-shelf goods, obtaining a document from Social Security Institution certifying no binding relations shall not be required.

Securities not returned

Article 14 - In cases where offsetting pursuant to Article 13 needs not be made, any letters of guarantee furnished as a performance bond and not yet returned due to lack of a request (from the contractor) despite a written notice from the contracting authority, within two years from the date of approval of minutes of final accounts and final acceptance for construction works, and from the date of acceptance or the date of expiration of guarantee period, if any, for other works; such letters of guarantee shall become void and be returned to the issuing bank. Securities in forms other than a letter of guarantee shall be credited to Treasury as revenue at the end of their terms.

SECTION THREE AMENDMENTS TO, ASSIGNMENT AND TERMINATION OF CONTRACTS

Amendments to contracts

Article 15 - Contractual provisions on matters as stated below may be amended after contract signing, provided that the contract price is not exceeded and that the contracting authority and the contractor mutually agree thereon:

- a) Location of performance of work or place of delivery.
- b) Duration of work and conditions of payment in accordance with such duration provided that it is completed or delivered before its time (as originally specified in the contract).

Assignment of contracts

Article 16 - A contract may be assigned to third parties where absolutely necessary and on written permission from the contracting officer. However, it shall be mandatory for such third parties to take over (the contract) possess the qualifications as originally specified in the tender process. Furthermore, except for contract assignments other than those made consequent to

change of business title or charter, a contractor having assigned a contract may not assign or take over still another contract for a period of three years from the date of such assignment of contract. Any contracts assigned without due permission, as well as contracts assigned or taken over within three years following the assignment date shall be terminated and provisions of Articles 20, 22, and 26 shall apply to assignors and assignees.

Contractor's death, bankruptcy, serious illness, or arrest or conviction:

Article 17 - The following provisions shall apply in case the contractor dies, goes bankrupt, falls seriously ill, or is arrested or convicted

a) In case the contractor dies, the contract shall be terminated, works already performed shall be liquidated, and the performance bond and any other receivable due to the contractor shall be handed to successors. However, the contracting authority may, where it deems it appropriate, transfer the contract to any willing successors bearing the same qualifications (as required in tender documents), provided that they furnish performance bond as necessary for the entire contractual commitment, including supplementary security, if any, within 30 days following the date of death

b) In case of contractor's bankruptcy, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition.

c) If the contractor becomes unable to fulfill its commitments due to severe illness, arrest, or a freedom-restricting court sentence, then the contract may be proceeded on the condition that the contractor designates a proxy acceptable to the relevant contracting authority within 30 days following the date of the occurrence of such event. If the contractor is deprived of the means to designate a proxy on its own free will, then whomever the matter concerns may request that a trustee be designated instead in accordance with general provisions within the same period of time. In case none of such provisions can be applied, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition.

Death, bankruptcy, serious illness, arrest, or conviction where contractor is a joint venture

Article 18 - In contracts undertaken by joint ventures; death, bankruptcy, serious illness, arrest or freedom-restricting penalty, or dissolution of one of the persons constituting the joint venture shall not be an obstacle to contract's effectiveness. If, however, in a jointly undertaken engagement, one of the contractors has been pointed to the contracting authority as the lead partner or the coordinator, then in case of bankruptcy, serious illness, arrest, of freedom-restricting conviction, or dissolution (of the lead partner or coordinator firm), depending on whether the lead partner or coordinator is a natural or legal person, the contract shall be terminated and action shall be taken in accordance with Articles 20 and 22, except prohibition. In case the lead partner or coordinator dies, the contract shall be terminated, with works already done being liquidated and the performance bond being returned. Upon the proposal of other joint venture partners within 30 days following the date when such state of affairs has emerged, and with consent of the contracting authority, business may be continued by renewing the contract

provided that obligations for the business that had (originally) been undertaken by the (previous) lead partner or coordinator are fully undertaken, including any security thereof.

In case of the death, bankruptcy, serious illness, arrest or a freedom-restricting penalty, or dissolution of any partner other than the lead partner or coordinator in the joint venture, other partners of the group shall undertake all obligations of that outgoing partner, including performance bond, and carry on the contract.

Termination of contract by the contractor

Article 19 - In case the contractor serves notice in writing after the contract has been signed to the effect that it is unable to perform its obligations for reason of insolvency, excluding any force majeure, and states the justifications in such notice, performance bond along with supplementary security, if any, shall be entered into accounts as revenue, needless of filing a protest, and the contract shall be terminated with any accounts thereof being liquidated in accordance with general provisions.

Termination of contract by the contracting authority

Article 20 - The contracting authority shall terminate a contract under the circumstances described below:

a) In case the contractor fails to perform its obligations in compliance with provisions of the contract and tender documents or fails to complete works within the period as prescribed, and such state of affairs continues to persist despite contracting authority's warning clearly stating reasons for warning and offering at least 20 days' advance notice, with penalty for delay to apply on the basis of the ratio as stated in the tender document.

b) In case it is determined that the contractor has engaged in prohibited deeds or behaviors as specified in Article 25,

performance bond along with supplementary security, if any, shall be entered into accounts as revenue, needless of filing a protest, and the contract shall be terminated with any accounts thereof being liquidated in accordance with general provisions.

Termination of contract for reason of prohibited deeds or behaviors prior to contract signing

Article 21 - In case it is determined after a contract has been signed that the contractor has engaged in the course of the tender process in deeds or behaviors prohibited under the Public Procurement Law; performance bond along with supplementary security, if any, shall be entered into accounts as revenue, needless of filing a protest, and the contract shall be terminated with any accounts thereof being liquidated in accordance with general provisions.

However, provided that at least 80 percent of the obligations under the contract have been completed and public benefit is seen in having the contract completed, the contracting authority

may refrain from terminating the contract and require the contractor to complete its obligations under the contract, in case;

a) There is not sufficient time to carry out a new tender process for the remaining portion of works, because of urgency of business,

b) It is not possible to have a different contractor carry out the contract

c) The contractor has engaged in such prohibited deeds or behavior that would not prevent from completion of its remaining obligations.

Under such circumstances, the contractor shall be obliged to complete its obligations under the contract as required by the contracting authority. In this case, however, action shall be taken against the contractor in accordance with provisions of Article 26 and penalty shall be collected from the contractor in the same amount as the sum total of its performance bond and supplementary security amounts, if any. This penalty may be collected through deductions from the contractor's remuneration.

Dispositions pertaining to termination of contract

Article 22 - The contract shall be considered to have been terminated; as of the date of arrival of the contractor's request for termination of contract to the contracting authority pursuant to Article 19; or as of the date of expiration of the period specified in Paragraph (a) of Article 20; or as of the date of determination of relevant state of affairs pursuant to Paragraph (b) of Article 20 or pursuant to Article 21. The contracting authority shall take the decision for the termination of contract within seven days of the said dates. The contractors shall be notified of such decision within five days following the date of the said decision.

In case of termination of contract pursuant to Articles 19, 20, or 21, performance bond and supplementary security, if any, shall be updated in accordance with monthly wholesale price index published by DIE, the State Institute of Statistics, from the date which such security has been furnished to the date when it is entered into accounts as revenue. The difference between the amount updated and the amount of performance bond and supplementary security, if any, shall be collected from the contractor.

In case security is obtained through deductions from remuneration, while the amount withheld shall be entered into accounts as revenue, the amount of security that corresponds to the amount of works not completed posterior to date of contract termination shall also be collected from the contractor after updating (security) pursuant to the first Paragraph above.

Any security entering into accounts as revenues shall not be offset against the debt of the contractor.

In case of contract termination pursuant to Articles 19, 20, or 21, action shall be taken against contractors in accordance with provisions of Article 26. The contractor shall further be

caused to pay compensation for any losses or damages the contracting authority may have incurred due to termination of contract.

Termination of contract due to force majeure

Article 23 - In case a contract is terminated due to force majeure, the accounts of the contract shall be liquidated in accordance with general provisions and performance bond and any supplementary security shall be returned.

Additional works to be made under the contract, work decreasing and winding-up contract

Article 24 - (Amended article: 30/07/2003 – Law No. 4964/ Art. 46) In case any work increase is inevitable due to unforeseen reasons, provided that;

- a) work increase is kept within the project subject to the contract,
- b) it is not technically and economically possible to separate additional work from the main contract without burdening the contracting authority,

the contracting authority may have the same contractor perform the work increase up to the amount of 10 % of the main contract's price in turn-key lump-sum works contracts and up to the amount of 20 % of the main contract's price in unit price goods, services and works contracts in accordance with the provisions specified in the original (main) contract and tender documents except the provisions on contract duration.

In works contracts based on unit price, Council of Ministers shall authorized to raise this ratio up to 40 % of the related contract.

In case it is determined that the work can not be completed under these circumstances the accounts (of the contract) shall be liquidated in accordance with general provisions without any increase. However, under such circumstances, it shall be compulsory that the entire work be fulfilled in accordance with provisions of tender documents and of contract.

In case it has been determined that the work may be completed with a price lower than 80 % of the contract price, the contractor shall be obliged to complete the work. In such case, as a reward for the actual expenses incurred by the contractor and contractor's profit, the 5 % of the difference between 80 % of the (total) contract price and the amount of work performed on the basis of contract prices shall be paid to the contractor over the prices current on the date of provisional acceptance.

CHAPTER THREE

Prohibitions and Liabilities

Prohibited Acts and Behaviors

Article 25 - During implementation of a contract, the following acts shall be prohibited;

a) Corrupting or attempting to corrupt any transactions pertaining to the contract through fraud, intrigue, promises, threats, using influence, seeking of personal interest, agreement arranging, malversation, bribery or through other means,

b) Drawing up or using, or attempting to draw up or use false documents,

c) Using adulterated materials, means or methods or engaging in production contrary to rules of science or the trade or (otherwise) deficient or faulty, in the course of carrying out business under the contract or making deliveries thereof

d) Causing damage to the contracting authority in the course of performing its obligations under the contract,

e) Using its knowledge and experience to the detriment of the contracting authority or acting in violation of the provisions of Article 29,

f) Failing, excluding force majeure, to perform its obligations in accordance with provisions of contract and tender documents,

g) Assigning or taking over a contract in violation of provisions of Article 16.

Prohibition from procurements

Article 26 - (Amended paragraph: Law No. 4964/ Art. 47) Those who are determined to have been engaged in acts or behaviors as specified in Article 25 shall be prohibited from participating in tender processes carried out by all public entities and institutions including the ones stated as exceptions in 2nd and 3rd articles of Law no. 4734, for a period of up to two years, not being less than one year, depending on the nature of the said acts and behaviors. Prohibition decisions shall be taken by the Ministry implementing the contract or by the Ministry which the contracting authority is subordinate to or associated with, or by contracting officers of contracting authorities which are not considered as subordinate to or associated with any Ministry, and by the Ministry of Internal Affairs in special provincial administrations and in municipalities and in their affiliated associations, organizations, enterprises.

In case the legal person prohibited pursuant to the first Paragraph above happen to be a sole proprietor, the prohibition shall apply to all partners in that company; while in case of capital stock company the prohibition shall apply to all shareholders, natural or legal persons, who own more than half of the capital in the subject company. Depending on whether the parties prohibited are natural or legal persons; where they are at the same time partners in another sole proprietor, the prohibition shall apply to such companies as well; and where the prohibited parties are shareholders in stock companies, the prohibition shall also apply to such stock companies if the prohibited parties own more than half of the capital in the subject company.

Those parties that are determined to have been involved in such act and behaviors shall not be allowed to participate in any tender processes that may be carried out by the same contracting authority until the date when the decision for prohibition becomes effective.

Decisions for prohibition shall be produced within latest forty five days as from the date when the act or behavior that warranted the prohibition decision has been determined to have taken place. The decision for prohibition produced thus shall be forwarded within maximum 15 days for publication in Official Gazette and it shall become effective on the date it is thus published. The Public Procurement Authority shall monitor the said decisions and maintain a registry on the parties that have been prohibited from participating in public procurement processes.

In case a contracting authority encounters circumstances warranting a decision to prohibit as stated in Article 25, it shall be responsible for reporting such circumstances to the Ministry which it is subordinate to or associated with.

Criminal liability of contractors

Article 27 - Notification of crime shall be filed with the Office of Public Prosecutor against natural and legal persons who have been found to have engaged in those acts and behavior that are specified in Article 25 and that also constitute crime under Turkish Criminal Code, along with the partners or proxies of the said parties in the subject business, for purposes of prosecution in accordance with Turkish Penal Code, even if such determination is made after works (under the contract) has been completed and final acceptance has taken place. Along with the criminal sentence, the court shall also rule that these parties, along with those listed in Article 26, be prohibited from participating in all tender processes that may be carried out by any public entity or institution subject to this Law, for a period of up to three years, not being less than one year and being effective as of the expiration date of prohibition decision which has been rendered pursuant to Article 26.

The courts shall prohibit permanently from participating in public tenders those parties that have received recurring convictions because of their acts or behaviors prohibited under this Law, along with stock companies in which the said parties own more than half of the capital and sole proprietorships that the said parties own.

Concerning the parties that have been prohibited pursuant to provisions of this Article and having received court sentences; Office of the Public Prosecutor shall notify the Public Procurement Authority and the occupational organizations for purposes of appropriately updating the records of the said parties in relevant registries.

Public Procurement Authority shall advertise court rulings concerning the parties that have been prohibited permanently from participating in public tenders by having the said rulings published in the Official gazette within fifteen days from the date of notification.

Criminal liability of officials

Article 28 - Any chairpersons, members and other officials of control and acceptance commissions, works control/inspection officials, or others in charge at any stage of procurement process; in case they are determined not to have carried out their duties in accordance with legal requirements in an impartial manner and to have acted in negligent or deficient ways that would cause damages to any one of the parties involved, they shall receive disciplinary penalties pursuant to relevant legislation. Furthermore, depending on the nature of their acts and behavior, they shall also be prosecuted under criminal law and, along with any penalty as ruled (by the court), they shall also be caused to compensate in accordance with general provisions for any damages and losses they may have caused any parties to have incurred. **(Amended sentence: Law No. 4964/ Art. 48)** Those contracting authority officials who were sentenced due to deeds or behavior contrary to this Law shall not be assigned any duties that fall under this Law.

Public entities or institutions subject to this Law shall not appoint any persons who have received any penalties as ruled by judicial bodies because of the works that fall under this Law to any positions in charge of implementing this Law or any other relevant legislation.

Prohibition of disclosure of information and documents

Article 29 - Persons in charge of implementing this Law and those who offer consulting services shall not disclose any confidential information or documents pertaining to contractor's business or transactions or their technical or financial structures and shall not use them for their own or any third parties' benefit. Sanctions laid down in Articles 26 and 28 shall apply to those who act contrary to this provision according to relevance.

Contractor's and subcontractor's liability in works contracts

Article 30 - Contractors and subcontractors in works contracts shall be liable successively (severally) for any loss or damage stemming from failure to construct in accordance with technical and trade rules or use of adulterated materials or similar reasons, not only from the date of commencement of construction to the date of final acceptance, but also for a period of fifteen years from the date of final acceptance. Contractor and subcontractors shall be caused to complete and compensate for any such loss or damage pursuant to general provisions. Furthermore, provisions of Article 27 shall apply to the said parties.

Liability of Control / Inspection Officials

Article 31 - Contracting authority officials carrying out control/inspection functions (in works) shall be liable successively (severally) with the contractor for any loss or damage stemming from failure to construct in accordance with technical and trade rules as emergent because of deficient inspection and control, for a period of fifteen years. Furthermore, the provisions of Article 28 shall apply to such officials.

Liability of Consulting Service Providers

Article 32 - For a period of fifteen years, the consultant (service provider) shall be directly liable for loss or damage stemming from design errors, implementation errors, deficiency of control and inspection, erroneous cost estimation, failure to construct in compliance with current legislation, failure to comply with rules of professional ethics, failure to use knowledge and experience to the benefit of the contracting authority, and similar reasons; and successively (severally) liable with the contractor and subcontractors where the consultant has undertaken control and inspection services on works.

The consultant shall be caused to complete and compensate for any such loss or damage pursuant to general provisions. Furthermore, provisions of Article 27 shall apply to the consultant.

Liability of Suppliers

Article 33 - Suppliers shall be directly liable in the framework of their undertaking for any loss or damage stemming from supplying or using deficient or sub-standard materials or failure to perform obligations in accordance with provisions of contract and tender documents or similar reasons. The supplier shall be caused to complete and compensate for any such loss or damage pursuant to general provisions. Furthermore, provisions of Article 27 shall apply to the supplier.

Liability of Service Providers

Article 34 - Service providers shall be directly liable in the framework of their undertaking for any loss or damage stemming from selection, supply or use of deficient or sub-standard materials, design errors, implementation errors, deficiency of inspection and control, failure to perform obligations in accordance with provisions of contract and tender documents, or similar reasons. The service provider shall be caused to complete and compensate for any such loss or damage pursuant to general provisions. Furthermore provisions of Article 27 shall apply to the service provider.

CHAPTER FOUR

MISCELLANEOUS PROVISIONS

Performance bond

Article 35 - In cases where this Law does not apply (in relation to performance bond), the provisions of the Public Procurement Law concerning securities shall apply.

Cases Where (Relevant) Provisions Are Absent

Article 36 - In cases where this Law does not apply, provisions of the Code of Obligations shall apply.

Notification

Article 37 - For notifications to be served in case there is no relevant provision in this Law, the provisions of the Code of Notification shall apply.

Amendments

Article 38 - Amendments to provisions of this Law shall only be made through annexing provisions to or making changes in this Law.

CHAPTER FIVE

FINAL PROVISIONS

Provisions Not Applicable

Article 39 - a) Provisions of State Tender Act No. 2886 dated September 8, 1983 shall not apply to contracts made in the context of contract awards made pursuant to the Public Procurement Law.

b) Provisions in other legislation stipulating exemption from Law No. 2886 the State Tender Act dated September 8, 1983, and any provisions not compliant with this Law, shall not apply.

c) (Supplementary subparagraph: 30/07/2003 – Law No. 4964/Art. 49) For contracts to be made under the Law No. 2985 on Mass Housing, Council of Ministers shall be entitled to establish the rules and principles on special contracts, provided that criminal sanctions and prohibition from participation in tenders are subject to this Law.

Preparation of Type Contracts

Provisional Article 1 - The Public Procurement Authority shall prepare the type contracts to be issued for purposes of implementation of this Law in consultation with relevant entities and institutions, and publish in the Official Gazette, by the time this Law is scheduled to enter into force.

Contracting authorities shall continue to implement existing contracting rules and provisions until they (type contracts) come into force.

Entry into force

Article 40 - This Law shall enter into force on January 1, 2003.

Enforcement

Article 41 - Council of Ministers shall enforce provisions of this Law.

PROVISIONS NOT SET OUT IN THIS LAW

PROVISIONAL ARTICLE OF THE LAW NO. 4964 DATED 30/07/2003

Provisional Article 1 - Standard tender documents, Type Contracts and regulations required to be rearranged due to the amendments on the Laws No. 4734 and 4735 made by this Law shall be prepared by Authority within sixty days as of publication date of this law and shall be put into force. Arrangements made by this law on monetary limits in Law No. 4734 and newly added monetary limits shall be updated by Authority within the framework of the principles of article 67 of Law No. 4734 as to the date 1.1.2003, by considering those limits were current on 22.01.2002. Contracting authorities shall continue to implementing the provisions of existing principles, procedures and regulations until the above mentioned arrangements become effective.

Rules and procedures required to be prepared and become effective due to the amendments made on provisional articles 3 and 4 of the Law No. 4734 shall be prepared within thirty days as from the publication date of this law and put into force. Until those arrangements have been published, contracting authorities shall continue to implement the rules and procedures which had been prepared and become effective based on formerly executed interim articles 3 and 4 of Law No. 4734 prior to amendments made by this law.

Works procurements, in which the institutions benefiting from the exception provision in paragraph (g) of the Article 3 of the Law No. 4734 are contractors under contracts, shall be subject to the exception provisions proposed in the same paragraph for a period of ten years.